IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 2171 of 2000

Between:

S.Sivarama Gupta son of Subbarayulu Chetty
18-218, Mandi street, Chittoor, Chittoor Dist

Proprietor M/s Ashoka Trading Company

Mandi Street, Chitoor.

..... PETITIONER

AND

1. The Joint Collector, Chittoor, Chittoor District
2. The Mobile Squad Dy Tahsildar, District Supply Officer'soffice, Chittoor, Chittoor District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records in A.S. No. 34/99 dated 3/12/1999 on the file of the District Judge, Chittoor and the records connected with proceedings No.S3/6A/250/CTR/98 dated 8/02/1999 on the file of the 1st respondent herein and quash the said orders by issuing a Writ of Certiorari or any other appropriate Writ, order direction.

Counsel for the Petitioner: MR.NOUSHAD ALI

Counsel for the Respondents 1 and 2: The GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

Heard both sides.

The petitioner who is a dealer in food grains filed this Writ Petition, inter alia, seeking to assail the orders dated 03.12.1999 passed in A.S. No. 34 of 1999 by the District Judge Chittoor confirming to the extent of 50% confiscation of the seized goods as per order in proceedings No.S3/6A/250/CTR/98 dated 08.02.1999 on the file of first respondent.

The case of the petitioner, in brief, is that during the inspection conducted on 16.12.1998 at the shop of petitioner, the total stock of 278 quintals of rice and 38 quintals of broken rice was seized under Panchanama of the even date on the ground that there is an excess of 61.50 quintals of broken rice. The said seizure was followed by show cause notice and ultimately final orders confiscating the entire stock. That apart, on appeal, the Court below partly allowed the appeal by confiscating only 50% of the stock seized.

The learned counsel appearing for the petitioner herein submits that having regard to the fact that there is absolutely no allegation of indulging in the black marketing or any finding in support thereof, the question of seizing any stock does not arise.

On the other hand, the learned Government Pleader appearing on behalf of the respondents sought to sustain the impugned Order on the ground that in view of the variation found, the authorities have rightly confiscated the stocks.

Considering the submissions made on either side and on perusal of the material on record, it is seen that neither of the authorities while considering the objections raised by the petitioner has given any finding as to the indulgence of the petitioner in any black marketing. Further, even on the report of the allegations as made against the petitioner, there is no averment to the effect that the petitioner is doing any clandestine business or indulging in black marketing.

Having regard to the above and especially in view of the principles laid down by this Court in ***DILIP KUMAR, PROP. ADARSH RICE DEPOT*** v. ***STATE THROUGH INSPECTOR OF POLICE, VCCS, DEPARTMENT*** confiscation of entire stock is liable to be set aside.

Accordingly, this writ petition is allowed. The impugned orders are set aside.

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16-08-2004

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice onthi Monday the sixteenth day of August, two thousand and four.

kvrm/gs

To

1. The Joint Collector, Chittoor District
3. Mobile Squad, Dy Tahsildar, District Supply Officer's office,

Chittoor, Chittoor District.

4. 2 CCs to G.P. for Civil Supplies, High Court Premises,

Hyderabad (OUT)

5. 2 CDs